

**Submission to the UN Universal Periodic Review
of Islamic Republic of Iran**

*For consideration by the Office of the UN High
Commissioner for Human Rights for the 20th session
of the UPR Working Group in 2014*

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Introduction

1. This submission is based on London Legal Group (LLG)'s work in Iran, and it outlines ongoing concerns in relation to the following human rights issue in the Islamic Republic of Iran (IRI):
 - a) Restrictions on the freedom of expression, association and peaceful assembly, and right to participate in public and political life;
 - b) Conditions of detention, especially as far as political prisoners and minority rights activists are concerned;
 - c) Minorities rights;
 - d) Women's rights, with focus on gender-based violence under the form of honour killings.
2. Our concerns are based upon Iran's obligations contained in a number of international treaties and conventions -signed and ratified by IRI- and domestic remedies. Reference is also made to the recommendations Iran received during the first Universal Period Review in 2010, as well as to the implementation of the accepted ones.

Restrictions on the freedom of expression, association and peaceful assembly, and right to participate in public and political life

3. The Islamic Republic of Iran is a signatory of the Universal Declaration of Human Rights, of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights, which all define the abovementioned freedoms as basic and fundamental.
4. The Iranian Constitution recognizes and protects the freedom of expression (art. 24), the freedom of association (art. 26) and the freedom of assembly (art. 27). These freedoms are subject to possible limitations and exceptions, and art. 40 of the Constitution reads "No one is entitled to exercise his rights in a way injurious to others or detrimental to public interests". Very often, the vague wording regarding possible limitation leaves a wide margin of appreciation in the specific case, which might result in arbitrary and unacceptable limitations of the fundamental freedoms.¹
5. After the first UPR in 2010, IRI accepted to implement several recommendations concerning the amendment of the Constitution and other laws (such as the Islamic Penal Code), so to better define the limitations to these freedoms.
6. IRI has not done so, and numerous violations of the rights to free expression, association and peaceful assembly have been registered.
7. In the new Islamic Penal Code, the provisions of *Moharebeh*, waging war against God, have not changed significantly in comparison to the original Islamic Penal Code, and they remain as one of the most referenced laws for sentencing political prisoners to death. In his October 2011 annual report on the situation of Human Rights in IRI, Ban Ki Moon, Secretary General of the United Nations, expressed great concern for Iran's "exercise of death penalty with regards to charges of Moharebeh". He stated: "Iran's [Criminal] Code defines Moharebeh as

¹ According to the Amnesty International Report 2013, suspects often face vaguely worded charges that do "not amount to recognizably criminal offences". In fact, it is the judge who is called to decide whether a certain act constitutes "corruption on earth" or "enmity against God", both punishable by death. <http://www.amnesty.org/en/region/iran/report-2013>

aggression using weapons.” The special report expressed concerns for Iran’s “illegal, arbitrary and summarily enforcement of executions, and for its failure, despite repeated requests, to explicitly and clearly define *Moharebeh*.”²

8. The situation is particularly risky for representatives of minorities such as the Kurds, since activists have been targeted by the Iranian Authorities because of their Kurdish origin and religion. Kurdish human rights defenders, community activists and journalists often face arbitrary arrest and prosecution in IRI. Members of minority religious groups face severe restrictions on their freedom of religion and belief. Individuals who actively promote their faith may be charged with the offence of *Moharebeh* (although this is usually only used for those who take up arms) or working with an armed group against the State.³
9. The Kurdish Human Right Project and the London Legal Group have reported numerous cases of Kurdish activists being arrested and, in many cases, sentenced to death in relations to their exercise of the freedoms to expression, association and peaceful assembly. They are usually charged with vaguely-worded offences such as *Moharebeh* and *Ifsad Fil-arz* (corruption on earth). The arrests are also an alleged mean of pressure on family and friends, to stop them from actively promoting the Kurdish ethnicity and reporting abuses.⁴
10. An emblematic example of these arrests is that of Muhammad Kaboudvand, which has recently been analysed by the Working Group on Arbitrary Detention of the Human Rights Council. In 2004, Mr. Kaboudvand founded the Kurdistan Human Rights Organization, which became a primary source of reports on the conditions in Iranian prisons, including the use of torture. He also initiated a peaceful campaign of advocacy with a goal to draw attention to violations of human rights in Kurdistan. He was arrested in 2007 and charged with ‘acting against national security by establishing the Human Rights Organization of Kurdistan’, ‘opposing Islamic penal laws by publicizing punishments such as stoning and executions’ and ‘advocating on behalf of political prisoners’⁵. Thus, his detention is directly linked to his peaceful exercise of the right to freedom of opinion and expression and the right to freedom of association and has been found arbitrary by the Working Group on Arbitrary Detention in 2012⁶.
11. The London Legal Group welcomes the recent news, according to which “Iran’s Minister of Culture and Islamic Guidance Ali Jannati publicly stated that the Iranian Judiciary should join the Rouhani administration in providing more freedom of expression to Iranian media and

² The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, by Maryam Hosseinkhah, Women’s Rights Activist and Writer May 7, 2012 (Iran Human Rights Documentation Center)

³ See the Urgent Action sent by the London Legal Group to the Office of the High Commissioner for Human Rights, dated 25 November 2013 and concerning the imminent execution of Mansour Arwand in Iran.

⁴ See the Urgent Action sent Rights by the Legal London Group to the Office of the High Commissioner for Human Rights. dated 14 October 2013 and concerning the imminent execution of Sic Iranian Kurdish citizens.

⁵ “Open Letter to the Head of the Judiciary: Release Kaboudvand”, International Campaign for Human Rights in Iran, 25 November 2008

<http://www.iranhumanrights.org/2008/11/open-letter-to-the-head-of-the-judiciary-release-kaboudvand/>

⁶ “The deprivation of liberty of Mr. Kaboudvand is arbitrary, being in contravention of articles 9, 10, 11, 18, 19 and 21 of the UDHR and articles 9, 14, and 19 of the ICCPR, and falls within categories I, II and III of the categories applicable to the consideration of the cases submitted to the Working Group.

(...)

This Working Group believes that, taking into account all the circumstances of the case, the Government of the Islamic Republic of Iran should release Mr. Kaboudvand forthwith and accord him an enforceable right to compensation pursuant to article 9(5) of the ICCPR” Human Rights Council, Opinion adopted by the Working Group on Arbitrary Detention at its sixty-fifth session, 14-23 November 2012

artists, in an interview with Al Jazeera”⁷ and encourages the Government in taking the necessary steps in this direction.

Conditions of detention

12. The London Legal Group shares the alarm raised by the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Ahmed Shaheed in October 2013, especially concerning death penalty: “Some 724 executions took place between January 2012 and June 2013 (...). The majority of executions (...), including a number of public executions”.⁸
13. The death penalty is a violation of the right to life as enshrined in the Universal Declaration of Human Rights and international human rights treaties to which IRI is a State party and is the ultimate cruel, inhuman and degrading punishment and should be abolished by the Iranian authorities.
14. We recall the Kurdish Human Rights Association’s remark during the 2010 UPR on the widespread use of public executions and regret to inform that no improvement has been registered so far. We also have allegations of death penalties being carried out without prior notification to the victim and their family.
15. The London Legal Group is particularly concerned with the allegations of torture and other forms of ill-treatment, to which political prisoners are regularly subjected.
16. We acknowledge that the Constitution of the Islamic Republic of Iran forbids “Any kind of torture used to extract an admission of guilt or to obtain information” (art. 38). Some provisions in the Penal Code were found ambiguous by the international community, which asked IRI to ensure that all acts of torture are considered crimes according to national legislation.
17. Amnesty International’s 2013 report notes that, despite accepting these recommendations, “amendments to the Penal Code passed by parliament in February continued to allow cruel, inhuman and degrading punishment”.
18. During the 2010 UPR, Iran accepted several recommendations concerning the possibility of adopting the Convention against Torture, as well as the Optional Protocol thereto. Nevertheless, it has not done so and allegations of torture by state agents are alarmingly high.
19. The prohibition of torture is universally accepted and is well established under customary international law as *jus cogens*. For this reason, despite not ratifying any international instrument, IRI has the duty to abstain from any form of torture and to persecute any allegation it might receive.
20. We want to raise our deep concern about reports of Kurdish detainees, who were allegedly forced to confess after long sessions of torture. These include severe beatings, long periods of solitary confinement⁹, threats of rape and ill-treatment by electric shock. The confessions so obtained were afterward considered valid by the courts, who sentenced the victims to death or to long-term imprisonment.
21. Of deep concern are also the allegations by Kurdish detainees that they were denied access to their lawyers. The London Legal Group reported on several occasions in the last four years to

⁷ 11 January 2014 (<http://www.iranhumanrights.org/2014/01/culture-judiciary/>)

⁸ October 2013 report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, <http://shaheedoniran.org/wp-content/uploads/2013/10/N1350031.pdf>

⁹ ‘Prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7’, Human Rights Committee General Comment 20, para. 6

the UN Office of the High Commissioner for Human Rights with regard to prisoners who were able to meet their lawyer on very limited circumstances. In one case, the lawyer “was allowed access only twice, before the hearing and trial, and was not allowed to confer with [him] during the hearing, although access to legal counsel is protected and permitted by Iranian law. Moreover, the right to access to counsel has been affirmed by the UN General Assembly in 1988, in Principle 18(1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment”¹⁰.

22. Moreover, convicts are often denied access to their families and friends¹¹ as well, resulting in prolonged periods of uncertainty which might amount to *incommunicado* detention. This is against international law, such as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which “states that everyone who is arrested, detained or imprisoned has the right to inform, or have the authorities notify, their family or friends. The information must include the fact of the arrest or detention and the place where he or she is being kept in custody. If the person is transferred to another place of custody, his or her family or friends must again be informed. This notification is to take place immediately or at least without delay”¹².
23. The London Legal Group finally expresses its firm condemnation against the disrespect for the physical health of political prisoners detained in Iran. Convicts often suffer from poor hygiene and food conditions, as well from the effects of torture. They are regularly denied access to medical care, even when prison doctors declare there is need for it. As reported in a note by the Secretary General on “The Situation of Human Rights in the Islamic Republic of Iran” (UN Doc. A/66/374, 23 September 2011, para. 35), a Kurdish activist for human rights ‘has suffered from a series of chronic and acute medical problems often not attended to by medical staff, including two strokes in 2010. Although prison doctors have written to judicial authorities stating that [he] is in urgent need of specialist medical care, no action has allegedly been taken. It was only on 23 July 2010 that [he] was allowed to see a neurologist in prison’.

Minorities rights

24. The Constitution of IRI guarantees equal rights to all citizens, regardless of their ethnicity (art. 19). Iran is also a signatory of the ICESCR, which promotes tolerance among all ethnic groups (art. 13), and of the ICCPR, which provides for the free exercise of language, culture and religion (art. 27).
25. Nonetheless, DPI has various allegations of discrimination against members of the Kurdish minority, who are often harassed and even arrested with the accusations of propaganda against the system and corruption on earth.
26. DPI’s observations are supported by those of the UN Special Rapporteur on the situation of human rights in Iran, Ahmed Shaheed, who in October 2013 stated “Multifarious violations of ethnic minority rights in the Islamic Republic of Iran as guaranteed in the Covenant continue

¹⁰ See for example the case of Muhammad Kaboudvand, for which the London Legal Group sent an Urgent Action to the Office for the High Commissioner for Human Rights, date 3 July 2012.

¹¹ See Urgent Action sent by the London Legal Group to the Office for the High Commissioner for Human Rights, dated 14 October 2013: “These men were not allowed to contact their families in order to inform them of their arrest and their families remained in the dark about what happened to their loved ones and were not provided with an explanation as to their disappearances for month”.

¹² *Combating Torture -A Manual for Judges and Prosecutors* By Conor Foley http://www.essex.ac.uk/combatingtorturehandbook/manual/2_content.htm#f21 Accessed 10 february 2014

to emerge, however. These include infringement of the right to freedom of movement, to openly exercise cultural and linguistic rights, to work and to have safe working conditions and to enjoy adequate standard of living without discrimination of any kind”.

27. Kurds and other minority groups (Afghan refugees, Ahwazi Arabs, Sistan and Balochestan) are prevented from accessing education in their mother tongue and are banned from using minority languages in official contexts. They are discriminated against in law and in practice, being denied access to employment, education and other economic, social and cultural rights on an equivalent basis with other Iranians.¹³
28. The Kurd minority welcomed the election of Hassan Rouhani, hoping he would appoint a Kurdish representative as Governor for their region. This has not happened due to the impossibility –as stated by the interior minister- to find a local officer with enough expertise.
29. The continue lack of independence in the administration of the province of Kurdistan threatens to trigger new waves of violence among the armed opposition groups, who find a leverage among the in the fact that the Government is not sensitive about their issue.¹⁴

Women’s rights

30. The London Legal Group was favourably impressed by the fact that Iran accepted most of the recommendations relating to women’s rights during 2010 UPR.
31. Several new legal decrees have slightly improved the conditions of women before the law, allowing them to inherit from their deceased husband, to be entitled to equal blood money and to benefit from alimony in permanent marital relationships¹⁵.
32. Despite these improvements, women continue to face discrimination in the law and in practice. In fact, discrimination is faced by Iranian women regarding their personal status (in matters related to marriage and child custody), their ability to obtain a passport and their enrolment in university¹⁶.
33. In spite of the formal acceptance of the recommendations formulated in the 2010 UPR, IRI is yet to sign the Convention on the Elimination of All Forms of Discrimination against Women and to create the necessary condition to have legal equality between men and women.
34. With regard to violence against women, we register that the new Penal Code has not modified art. 630, which expressly allows honour killings: a husband can kill his wife and his lover if he catches them in flagrante. Moreover, a father cannot be sentenced to qisas (retaliation) for killing his child: he can only be sentenced to three to ten years’ imprisonment. “In addition, when another family member, such as the victim’s brother, kills a girl or a woman in the family, the Islamic Shari’a gives the victims’ next of kin the right to determine whether the condemned should be sentenced to death to be forgiven”¹⁷.

¹³ Amnesty International Report 2013, <http://www.amnesty.org/en/region/iran/report-2013> Accessed 10 February 2014

¹⁴ Behdad Bordbar , “Iranian Kurds disappointed with Rouhani” <http://www.al-monitor.com/pulse/originals/2013/12/rouhani-disappoints-iran-kurds.html> Accessed 10 February 2014

¹⁵ See Mid-term Implementation Assessment: Iran, on Recommendation n. 172. <http://www.upr-info.org/-Iran-.html> Accessed 10 February 2014

¹⁶ Human Rights Watch, World Report 2013, https://www.hrw.org/sites/default/files/wr2013_web.pdf Accessed 10 February 2014

¹⁷ M.H. Nayyeri, “Gender Inequality and Discrimination: The Case of Iranian Women”, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000261-gender-inequality-and-discrimination-the-case-of-iranian-women.html#.UupCNFaXpCQ>

35. Honour killings are mostly common in rural tribal communities in provinces such as Kurdistan, Lorestan and Khuzestan. Reports of women who were victims of honour killings are of great concern especially because they are not investigated by authorities, resulting in an implicit endorsement of this hideous practice.

Conclusions

36. The human rights situation in Iran remains a matter of serious concern, despite the optimism raised by the acceptance of most of the recommendations addressed to the Country during the first UPR in 2010.
37. The amendments of the Penal Code have brought some positive aspects but have yet to accomplish many of the relevant issues related to human rights violations.
38. The London Legal Group stresses the importance of signing and ratifying the CAT and the CEDAW, as well as implement all the legal measures which might be necessary to fully guarantee and protect the rights and freedoms enshrined in the international instruments to which the Islamic Republic of Iran is already a signatory (ICCPR, ICESCR, CRC and CERD).
39. Of particular importance is the implementation of complete equality among all citizens, including members of ethnic minorities, who shall not be harassed for exercising their human rights. All political prisoners shall be immediately released and all charges against them discharged.
40. Finally, we share the recommendation made by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, concerning the establishment of a national human rights institution, as pledged by the UPR.